

REMARKS

This Request for Reconsideration is offered in response to the Office Action of January 13, 2006.

The Office Action objected to the drawings under Rule 83(a) and consequently rejected Claim 40 under 35 U.S.C. §112, first paragraph, as failing to comply with the written description (i.e., “new matter”). The Office Action asserts that the application fails to provide antecedent basis for the tamper evident structure “encasing a first portion of the zipper closure” and the step of “forming an opening in the tamper-evident structure”. Both the objection to the drawings and the rejection of the claim are based on this assertion.

The Applicants respectfully refer to Figure 25, along with the description found on the paragraph bridging pages 16 and 17. The structure of Claim 25 is referred to as “tamper-evident” (see page 16, last line). In particular, the Applicants refer to page 17, lines 3-7, “Accordingly, a film extension 26 beyond the profiles 10, 12 and slider 9 is formed. The film extension 126 is then sealed by cross-weld bars 116. ... The resulting open-ended loop thus formed above-the slider-operated fastener must be torn off along the perforations before the slider can be used to open the bag 30.” It is respectfully submitted that this clearly discloses a tamper evident structure “encasing a first portion of the zipper closure”.

Likewise, the Applicants respectfully refer to side cuts 122 on Figure 25, as described on page 17, lines 1-3, as supporting “forming an opening in the tamper-evident structure”.

It is therefore respectfully submitted that the objection to the drawings under Rule 83(a) and the rejection of Claim 40 under 35 U.S.C. §112, first paragraph are overcome.

The Office Action rejected Claim 40 under 35 U.S.C. §102(e) as anticipated by the Buchman references (U.S. Patent Nos. 6,273,607; 6,290,390 and 6,347,885). However, it

appears that this rejection is premised upon the above-identified "new matter" rejection in that the present application was not considered to have the benefit of its earliest priority date. As the new matter rejection has been overcome, it is respectfully submitted that the present application should be accorded the benefit of its earliest priority date thereby overcoming the present rejection. It is further respectfully submitted that the priority of invention of this application with respect to Buchman's U.S. Patent No. 6,290,391 (which shares a common priority with the three above-cited Buchman references) under 35 U.S.C. §102(g) should be determined by way of declaration of an interference.

In view of the above, each of the claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to withdraw the outstanding rejections of the claims and to declare an interference.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Ronald E. Brown", with a stylized flourish at the end.

Ronald E. Brown
Registration No. 32,200

Pitney Hardin LLP
7 Times Square
New York, New York 10036-7311
212-297-5800